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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 JAMES SOLER,

12 Plaintiff,

13 v.

14 COUNTY OF SAN DIEGO, et al.,

15 Defendants.

Case No.: 14cv2470-MMA (RBB)

**ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

[Doc. No. 143]

16
17 Plaintiff James Soler brings this civil rights action against the County of San
18 Diego, seven individual San Diego County Sheriff's Deputies, and a former public
19 defender, pursuant to 42 U.S.C. § 1983 and California state law. Plaintiff alleges seven
20 causes of action in his Third Amended Complaint, including violations of his Fourth and
21 Fourteenth Amendment rights, wrongful arrest, wrongful detention, false imprisonment,
22 negligence, legal malpractice, and municipal liability. *See* Doc. No. 60. Defendants
23 move for summary judgment as to all claims. *See* Doc. No. 143. Plaintiff filed an
24 opposition to the motion, to which Defendants replied. *See* Doc. Nos. 147, 148, 155. In
25 addition, the Court granted Plaintiff leave to file a sur-reply. *See* Doc. Nos. 157, 159.
26 The Court took the matter under submission on the briefs pursuant to Civil Local Rule
27 7.1.d.1. *See* Doc. No. 156. For the reasons set forth below, the Court **GRANTS**
28 Defendants' motion.

BACKGROUND¹

This action arises out of events involving Plaintiff's arrest and subsequent detention for a thirty-year old crime he did not commit. In May 1985, an individual named Steven Lee Dishman was serving a seven year sentence for burglary and theft of property when he escaped from a prison work release program in Arkansas. Plaintiff James DeWolfe Soler and Steven Lee Dishman are not the same person. Nevertheless, on August 7, 2013, after seeing an internet notice describing Dishman's physical characteristics and escape, Plaintiff's neighbor contacted the Arkansas Department of Corrections ("ADOC") to report that Dishman was living in California under the name James DeWolfe Soler.

On September 25, 2013, Ray Hobbs, Director of the ADOC, swore to an affidavit stating that Steven Lee Dishman was living in Alpine, California under the alias of James DeWolfe Soler. Hobbs presented the affidavit to an Arkansas judge, who in turn issued an Affidavit of Probable Cause to support the extradition of "Steven Dishman, a/k/a James DeWolfe Soler" from California to Arkansas. Def. Ex. B. The ADOC forwarded the certified affidavits to the Office of Arkansas Governor Mike Beebe, who issued a requisition for extradition to California Governor Brown.

On November 27, 2013, the Office of the Governor of California issued a Governor's Warrant of Rendition commanding as follows:

WHEREAS, it has been represented to me by the Governor of the State of **Arkansas** that **Steven Lee Dishman aka James De Wolfe Soler** stands convicted under the laws of that state of **Burglary and Theft of Property**, thereafter **escaped from custody**, fled from the justice of the State of **Arkansas**, and is now found to be in the State of California; and

¹ These facts are taken from Defendants' separate statement, Plaintiff's response, and pertinent declarations and exhibits. The Court finds that the majority of *material* facts in this case are not in dispute. Where a material fact is in dispute, it will be so noted. Facts immaterial to the disposition of Defendants' motion are not recited herein.

1 **WHEREAS**, pursuant to the provisions of the Constitution and the laws of
2 the State of California and the State of **Arkansas**, the Governor of the State
3 of **Arkansas** has demanded of me that I shall cause the fugitive to be arrested
4 and delivered to **Director Ray Hobbs and/or designated agent(s)** authorized
5 to receive into custody and convey the fugitive back to said state; and

6 **WHEREAS**, the representation and demand is accompanied by the
7 requisition, a copy of the **Judgment and Commitment, Warrant**, and
8 supporting papers certified by the Governor of the State of **Arkansas** to be
9 authentic, whereby the fugitive was convicted of the crime.

10 **THEREFORE**, I, Edmund G. Brown Jr., Governor of California, acting
11 through my duly authorized Interstate Rendition Officer, command you to
12 arrest and secure **Steven Lee Dishman aka James DeWolfe Soler**, wherever
13 he may be found within this state, and to deliver him into the custody of the
14 designated agents; to be returned to the State of **Arkansas**, there to be dealt
15 with according to law.

16 Def. Ex. C (bold in original).

17 On December 6, 2013, the California Governor's Office issued a Request to Locate
18 and Serve, directed to the Extraditions Division of the San Diego County District
19 Attorney's Office, together with the Governor's Warrant and the Arkansas Governor's
20 Agent's Appointment. The Request to Locate and Serve provided the Alpine, California
21 address of James DeWolfe Soler. According to an activity log maintained by a paralegal
22 employed with the Extraditions Division, on January 7, 2014, the paralegal spoke to
23 Defendant Mark Milton, a San Diego Sheriff's Department detective assigned to the
24 Court Services Bureau, regarding the Governor's Warrant. Milton indicated that he
25 would have his "field guys" attempt an arrest. Def. Ex. G. Milton testified during his
26 deposition that he forwarded the materials he received, along with booking information
27 and a photograph of Plaintiff from a previous arrest, to Defendant Sergeant Turvey in the
28 El Cajon Courthouse Field Division.

29 Turvey supervised Defendant Deputies Germain and Medina, field deputies tasked
30 with serving civil process and warrants for the Sheriff's Department. On January 13,
31 2014, Germain and Medina encountered Plaintiff at his home in Alpine, California.

1 Plaintiff provided the deputies with a California Driver's License bearing the name James
2 DeWolfe Soler, and the address listed on the Request to Locate and Serve. Defendants
3 took Plaintiff into custody pursuant to the Governor's Warrant. At the time of his arrest,
4 Plaintiff and his wife denied that he was Steven Lee Dishman, and stated they suspected
5 their neighbors had falsely accused him. Germain and Medina transported Plaintiff to the
6 Alpine Sheriff's Sub-Station, and subsequently to San Diego Central Jail.

7 The next morning, Plaintiff informed jail staff that he was not Steven Lee
8 Dishman. Defendant Sergeant Banuelos proceeded with an investigation pursuant to the
9 Sheriff's Department Detention Services Bureau Policy for instances where a warrant
10 possibly names the wrong person. In his report, Banuelos recommended that Plaintiff
11 appear at an identity hearing in addition to his extradition hearing. Less than forty-eight
12 hours after his arrest, Plaintiff appeared before a San Diego Superior Court judge for his
13 initial appearance. Defendant Deputy Public Defender Tarantino served as Plaintiff's
14 appointed counsel. Plaintiff informed Tarantino that he was not Steven Lee Dishman.
15 Tarantino learned that no fingerprint comparison had been done, and the court continued
16 the hearing until January 22, 2014 in order for the fingerprint comparison to be
17 completed.

18 Plaintiff remained in custody after the hearing. A print comparison was performed
19 on Thursday, January 16, 2014. The examiner determined the prints did not match. The
20 District Attorney's Office conducted a confirmatory comparison on Tuesday, January 21,
21 2014.² The prints did not match. The District Attorney's Office notified Defendant
22 Smith, and Plaintiff was released from custody that same day.

23 Based on these events, Plaintiff brings the following claims: (1) wrongful arrest in
24 violation of the Fourth Amendment against Defendants Germaine, Medina, Milton,
25 Smith, and Turvey; (2) wrongful detention in violation of the Fourth and Fourteenth
26

27
28 ² Monday, January 20, 2014 was Martin Luther King Jr. Day, a legal holiday observed by San Diego
County Superior Court and the County of San Diego.

1 Amendments against all Defendant Officers; (3) municipal liability under 42 U.S.C. §
2 1983 (“Monell claim”) against Defendant County of San Diego; (4) wrongful arrest,
3 detention, and imprisonment in violation of California law against Defendant San Diego
4 County and Defendant Officers; (5) false imprisonment against Defendant San Diego
5 County and Defendant Officers; (6) negligence against Defendant Officers; and (7)
6 professional malpractice against Defendant Tarantino.

7 DISCUSSION

8 Defendants move for summary judgment, disclaiming liability as a matter of law
9 based on the facial validity of the Governor’s Warrant and Defendant Officers’
10 reasonable reliance on the warrant to arrest and detain Plaintiff. Alternatively,
11 Defendants argue that even if a constitutional violation occurred, the individual officers
12 are entitled to qualified immunity, and liability cannot be established against the County.

13 ***1. Legal Standard***

14 “A party may move for summary judgment, identifying each claim or defense – or
15 the part of each claim or defense – on which summary judgment is sought. The court
16 shall grant summary judgment if the movant shows that there is no genuine dispute as to
17 any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ.
18 P. 56(a). A fact is material if it could affect the outcome of the suit under applicable law.
19 *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49 (1986). A dispute about a
20 material fact is genuine if there is sufficient evidence for a reasonable jury to return a
21 verdict for the non-moving party. *Id.* at 248.

22 The party seeking summary judgment bears the initial burden of establishing the
23 basis of its motion and of identifying the portions of the declarations, pleadings, and
24 discovery that demonstrate absence of a genuine issue of material fact. *Celotex Corp. v.*
25 *Catrett*, 477 U.S. 317, 323 (1986). If the moving party does not bear the burden of proof
26 at trial, he may discharge his burden of showing no genuine issue of material fact remains
27 by demonstrating that “there is an absence of evidence to support the nonmoving party’s
28 case.” *Id.* at 325. The burden then shifts to the opposing party to provide admissible

evidence beyond the pleadings to show that summary judgment is not appropriate. *Id.* at 324. The party opposing summary judgment cannot “rest upon the mere allegations or denials of [its] pleading but must instead produce evidence that sets forth specific facts showing that there is a genuine issue for trial.” *Estate of Tucker v. Interscope Records*, 515 F.3d 1019, 1030 (9th Cir.), cert. denied, 555 U.S. 827 (2008) (internal quotation marks omitted).

2. *Evidentiary Objections*

a) Plaintiff’s Objections

Plaintiff objects to Defendants’ Exhibits D, K, M, Q, W, and X, as inadmissible hearsay. Defense Exhibit D, the District Attorney’s Office Activity Log, qualifies as a record of regularly conducted activity and exception to the prohibition on hearsay under Federal Rule of Evidence 803(6). Defense Exhibit K, an email string between Defendants Turvey, Germain, and Milton, is also admissible under Rule 803(6) as it “memorialize[s] the official acts” of the deputies while discharging their professional duties. *Neumeyer v. Wawanesa Gen. Ins. Co.*, No. 14cv181-MMA (RBB), 2015 U.S. Dist. LEXIS 59024, at *13 (S.D. Cal. Apr. 24, 2015). With respect to Defense Exhibits M (an arrest report) and Q (a crime/incident report), the exhibits are admissible as public records. “A police report, including the police officer’s statements and observations, are admissible in civil cases under the public records hearsay exception.” *Id.* at *64 (citing Fed. R. Evid. 803(8)). Accordingly, the Court **OVERRULES** Plaintiff’s objections to Defense Exhibits D, K, M, and Q. The Court did not rely upon Defense Exhibits W and X, and finds Plaintiff’s objections to these exhibits moot.

b) Defendants’ Objections

Defendants object to various portions of multiple declarations submitted by Plaintiff in support of his opposition to Defendants’ motion, primarily on relevance and hearsay grounds. Defendants also object to approximately 26 of Plaintiff’s proffered exhibits on the general grounds that the exhibits are irrelevant, unfairly prejudicial, hearsay, lack foundation, lack personal knowledge, and lack proper authentication. The

1 Court will “not scrutinize each objection and give a full analysis of identical objections
2 raised as to each fact.” *Neumeyer*, 2015 U.S. Dist. LEXIS 59024, at *12-13 (citing
3 *Capitol Records, LLC v. BlueBeat, Inc.*, 765 F. Supp. 2d 1198, 1200 n.1 (C.D. Cal. 2010)
4 (noting that on motions with voluminous objections “it is often unnecessary and
5 impractical for a court to methodically scrutinize each objection and give a full analysis
6 of each argument raised.”). However, the Court has taken each of Defendants’ objections
7 into consideration. To the extent the Court relies upon contested evidence to resolve the
8 instant motion, the Court **OVERRULES** Defendants’ objections.

9 **3. Extradition Laws**

10 The Extradition Clause of the United States Constitution provides:

11 [A] person charged in any State with Treason, Felony or other Crime, who
12 shall flee from Justice, and be found in another State, shall on Demand of the
13 executive Authority of the State from which he fled, be delivered up, to be
removed to the State having Jurisdiction of the Crime.

14 U.S. Const. Art. IV, section 2, cl. 2. “[T]he commands of the Extradition Clause are
15 mandatory, and afford no discretion to the executive officers or courts of the asylum
16 State.” *Puerto Rico v. Branstad*, 483 U.S. 219, 227 (1987). The power and duty of
17 determining whether the constitutional and statutory requirements to warrant extradition
18 are met rests on the Governor of the asylum state. *Michigan v. Doran*, 439 U.S. 282, 289
19 (1978). “A governor’s grant of extradition is prima facie evidence that the constitutional
20 and statutory requirements have been met.” *Id.* at 289. The Extradition Act is the
21 applicable federal implementing statute:

22 Whenever the executive authority of any State or Territory demands any
23 person as a fugitive from justice, of the executive authority of any State,
24 District or Territory to which such person has fled, and produces a copy of an
25 indictment found or an affidavit made before a magistrate of any State or
26 Territory, charging the person demanded with having committed treason,
27 felony, or other crime, certified as authentic by the governor or chief
28 magistrate of the State or Territory from whence the person so charged has
fled, the executive authority of the State, District or Territory to which such
person has fled shall cause him to be arrested and secured, and notify the

1 executive authority making such demand, or the agent of such authority
2 appointed to receive the fugitive, and shall cause the fugitive to be delivered
3 to such agent when he shall appear.

4 18 U.S.C. § 3182. “By the express terms of federal law, therefore, the asylum State is
5 bound to deliver up to the demanding State’s agent a fugitive against whom a properly
6 certified indictment or affidavit charging a crime is lodged.” *California v. Superior*
7 *Court of Cal.*, 482 U.S. 400, 407 (1987).

8 “A claim under section 1983 is available to redress violations of federal statutory
9 and constitutional law.” *Ghana v. Pearce*, 159 F.3d 1206, 1208 (9th Cir. 1998).

10 Accordingly, violation of the Extradition Act by state or local law enforcement officers
11 states a cause of action under section 1983. *Draper v. Coombs*, 792 F.2d 915, 920 (9th
12 Cir. 1986). In addition, California has adopted its own version of the Uniform Criminal
13 Extradition Act (“UCEA”), Cal. Pen. Code §§ 1548-1558, which “establishes procedures
14 for the interstate transfer of persons against whom criminal charges are outstanding.”
15 *Cuyler v. Adams*, 449 U.S. 433, 435 n.1 (1981). A violation of California’s extradition
16 laws “can serve as the basis of a section 1983 action where the violation of state law
17 causes the deprivation of rights protected by the Constitution and statutes of the United
18 States.” *Draper*, 792 F.2d at 921 (internal quotations omitted).

19 **4. Analysis**

20 a) Fourth Amendment Claim

21 Plaintiff alleges that his arrest and detention violated his Fourth Amendment right
22 to be free from unreasonable seizures. Defendants move for summary judgment on the
23 grounds that Plaintiff was arrested pursuant to a facially valid warrant, which provided
24 the officers with probable cause to arrest and detain Plaintiff.

25 The Fourth Amendment provides that “no Warrants shall issue, but upon probable
26 cause . . . and particularly describing . . . the persons or things to be seized.” U.S. Const.
27 Amend. IV. “The Fourth Amendment prohibits government officials from detaining a
28 person in the absence of probable cause. That can happen when the police hold someone

1 without any reason before the formal onset of a criminal proceeding. But it also can
2 occur when legal process itself goes wrong” and “a person is confined without
3 constitutionally adequate justification.” *Manuel v. City of Joliet*, 580 U.S. ___, 137 S. Ct.
4 911, 918 (2017) (internal citations omitted).

5 Plaintiff argues that his arrest and detention were unreasonable based on the lack of
6 probable cause to support the Governor’s Warrant. In the context of interstate extradition
7 proceedings, this is a non sequitur. The probable cause determination lies solely with the
8 demanding state. *See Michigan v. Doran*, *supra*, 439 U.S. at 290 (“When a neutral
9 judicial officer of the demanding state has determined that probable cause exists, the
10 courts of the asylum state are without power to review the determination.”). The asylum
11 state has no power to question the probable cause determination of the demanding state.
12 *See id.* at 282; *see also In re Golden*, 65 Cal. App. 3d 789, 796 (1977) (holding that
13 “constitutional and statutory provisions relating to extradition bar inquiry by the asylum
14 state into the merits of the charge against an alleged fugitive”); *see* Cal. Pen. Code §
15 1553.2 (“The guilt or innocence of the accused as to the crime with which he is charged
16 may not be inquired into by the Governor or in any proceeding after the demand for
17 extradition . . .”). “By postponing inquiry into the existence of probable cause until a
18 fugitive is lawfully returned to the demanding state, a necessary accommodation is
19 achieved between an individual’s interest in protection against unfounded invasions of
20 liberty and privacy and the state’s interest in upholding the constitutional and statutory
21 principles governing extradition.” *Golden*, 65 Cal. App. 3d at 796 (internal citations
22 omitted).

23 Moreover, once probable cause to arrest has been established, “a law enforcement
24 officer is not required by the Constitution to investigate independently every claim of
25 innocence.” *Broam v. Bogan*, 320 F.3d 1023, 1032 (9th Cir. 2003) (quotation omitted).
26 Officers are entitled to reasonably rely on an issuing authority’s determination of
27 probable cause, and will be shielded from any liability relating to the arrest if they relied
28 on the determination in good faith. *See United States v. Leon*, 468 U.S. 897, 922-23

1 (1984). Here, officials in the State of Arkansas determined, albeit incorrectly, that
2 probable cause existed to believe that the person living in Alpine, California under the
3 name “James DeWolfe Soler” was a fugitive from their state named “Steven Lee
4 Dishman.” The Office of the Governor of Arkansas compiled affidavits and directed
5 those documents to the Governor of California who, based on the information before him,
6 determined that Arkansas met the statutory requirements to warrant the extradition of the
7 man living under the name “James DeWolfe Soler” in Alpine, California.

8 Plaintiff asserts that the “most obvious basis” for Defendant Officers’ liability is
9 that they arrested Plaintiff “without probable cause to believe that Soler was the person
10 wanted on the warrant.” Pl. Opp. at 41. This is simply not the case. Defendant Officers
11 confirmed Plaintiff’s identity as James DeWolfe Soler, and arrested the exact man that an
12 Arkansas judge and two state governors previously deemed subject to extradition. The
13 officers were entitled to rely upon – and in fact, without discretion to disregard – the
14 executive and judicial determination of probable cause that Soler was an alias being used
15 by Dishman. *See Baker v. McCollan*, 443 U.S. 137, 145-46 (1979) (“Given the
16 requirements that arrest be made only on probable cause and that one detained be
17 accorded a speedy trial, we do not think a sheriff executing an arrest warrant is required
18 by the Constitution to investigate independently every claim of innocence, whether the
19 claim is based on mistaken identity or a defense such as lack of requisite intent.”); *see*
20 *also* Cal. Pen. Code § 848 (“An officer making an arrest, in obedience to a warrant, must
21 proceed with the person arrested as commanded by the warrant, or as provided by law.”).

22 Plaintiff also disputes the facial validity of the warrant, and contends that the
23 officers unreasonably relied upon the warrant to arrest and detain Plaintiff. A Governor’s
24 Warrant issued pursuant to Section 1549.2 is presumed valid. *See* Cal. Pen. Code §
25 1550.1 (“A warrant issued in accordance with the provisions of Section 1549.2 shall be
26 presumed to be valid . . .”). Plaintiff takes issue with the inclusion of the alias on the face
27 of the warrant, but does not dispute that “James DeWolfe Soler” is his true name. In
28 general, a warrant that correctly names the person to be arrested is constitutionally

1 sufficient. *Rivera v. Cty. of L.A.*, 745 F.3d 384, 388 (9th Cir. 2014). The arrest of a
2 person named in a valid warrant, even if it turns out to be the wrong individual, will not
3 violate the Fourth Amendment unless the arresting officers acted unreasonably. *Id.* at
4 389; *see Baker*, 443 U.S. at 145 (an arrest pursuant to a valid warrant does not violate the
5 Constitution, regardless of the outcome of the criminal prosecution).

6 Plaintiff further contends that the Governor’s Warrant did not otherwise satisfy the
7 Fourth Amendment’s particularity requirement. Plaintiff points out that the warrant did
8 not include a physical description of either himself or Steven Lee Dishman, which he
9 ascribes to be a key flaw based on the discrepancies between Plaintiff and Dishman’s
10 appearances. The Court once again notes that the Governor’s Warrant included
11 Plaintiff’s correct legal name, which is sufficient to satisfy the Fourth Amendment’s
12 particularity requirement. *See West v. Cabell*, 153 U.S. 78, 86 (1894) (“The principle of
13 the common law, by which warrants of arrest, in cases criminal or civil, must specifically
14 name *or* describe the person to be arrested, has been affirmed in the American
15 constitutions.”) (emphasis added). And while ordinarily under California law an arrest
16 warrant must describe the wanted individual, *see* Cal. Pen. Code § 850(b), Governor’s
17 Warrants are excepted from these requirements. *Id.* § 1549.2. The Governor of
18 California’s grant of extradition is *prima facie* evidence that sufficient documentation
19 exists to establish that a fugitive from justice is found in California. *See* Cal. Pen. Code
20 §§ 1549.2; 1550.1. As such, the ordinary prerequisites for arrest warrants set forth in
21 Section 850 are unnecessary. In this case, the Governor’s Warrant properly incorporated
22 the information typically included in a Governor’s Warrant, including the recital of the
23 documents received and reviewed by the Office of the Governor leading to the
24 determination that extradition was warranted. *See id.* § 1548.2. No further particularity
25 was required by the Constitution or California law.

26 The Court finds that Plaintiff was arrested and detained pursuant to a facially valid
27 Governor’s Warrant of Rendition. An arrest and detention pursuant to a facially valid
28 warrant does not establish a Fourth Amendment violation. *Baker*, 443 U.S. at 144;

1 *Erdman v. Cochise County*, 926 F.2d 877, 882 (9th Cir. 1991); *see also Juriss v.*
2 *McGowan*, 957 F.2d 345, 350 (7th Cir.1992) (“Generally, a person arrested pursuant to a
3 facially valid warrant cannot prevail in a § 1983 suit for false arrest; this is so even if the
4 arrest warrant is later determined to have an inadequate factual foundation.”).
5 Accordingly, Defendant Officers are entitled to summary judgment in their favor on
6 Plaintiff’s Fourth Amendment claim.

7 b) Fourteenth Amendment Claim

8 California denies bail to extradition subjects by statute. *People v. Superior Court*
9 (*Ruiz*), 187 Cal. App. 3d 686, 689 (1986) (citing Cal. Pen. Code § 1550.1). Therefore, as
10 a result of his arrest on the Governor’s Warrant, Plaintiff was remanded into custody and
11 detained for eight days. Plaintiff claims that this prolonged detention violated his
12 Fourteenth Amendment due process rights. Defendant Officers argue that no due process
13 violation occurred, based on Plaintiff’s appearance before a judge within 48 hours of his
14 arrest and ultimate release within the applicable statutory time period.

15 The Fourteenth Amendment does not protect against all deprivations of liberty, but
16 rather, deprivations of liberty without due process of law. The Ninth Circuit has
17 explained that “incarceration based on mistaken identity might violate the Due Process
18 Clause in some circumstances.” *Rivera*, 745 F.3d at 390. As relevant here, officers
19 violate the Fourteenth Amendment if they wrongly detain a person where “the
20 circumstances indicated to [them] that further investigation was warranted.” *Garcia v.*
21 *County of Riverside*, 817 F.3d 635 (9th Cir. 2016). Incarceration based on mistaken
22 identity violates the Due Process Clause if either: “(1) the circumstances indicated to the
23 defendants that further investigation was warranted, or (2) the defendants denied the
24 plaintiff access to the courts for an extended period of time.” *Rivera*, 745 F.3d at 391.

25 Once an individual is detained, “a jailor need not independently investigate all
26 uncorroborated claims of innocence if the suspect will soon have the opportunity to assert
27 his claims in front of a judge.” *Id.* at 391. Yet in this case, Defendant Banuelos
28 interviewed Plaintiff the morning after his arrest, determined that further investigation

1 was warranted into Plaintiff's claim of mistaken identity, and recommended that an
2 identity hearing be scheduled. A fingerprint comparison was promptly undertaken. The
3 five day delay between the initial comparison and the required confirmatory comparison,
4 resulted from unfortunate timing. The initial comparison was done on a Thursday before
5 a long holiday weekend. The confirmatory comparison was done on the following
6 Tuesday, when business resumed. Plaintiff was released from custody that day. Further
7 investigation into Plaintiff's identity was warranted in this case, and that is precisely what
8 occurred.

9 Nor was Plaintiff denied access to the courts. California has adopted the UCEA,
10 which sets forth the particular procedural protections afforded to individuals arrested and
11 detained pursuant to a warrant of rendition. The statute provides, in pertinent part:

12 No person arrested upon such warrant shall be delivered over to the agent of
13 the executive authority demanding him unless he is first taken forthwith
14 before a magistrate, who shall inform him of the demand made for his
15 surrender, and of the crime with which he is charged, and that he has the right
16 to demand and procure counsel. . . . A warrant issued in accordance with the
17 provisions of Section 1549.2 shall be presumed to be valid, and unless a court
18 finds that the person in custody is not the same person named in the warrant,
19 or that the person is not a fugitive from justice, or otherwise subject to
20 extradition under Section 1549.1 . . . the person named in the warrant shall be
21 held in custody at all times, and shall not be eligible for release on bail.

22 Cal. Penal Code § 1550.1. California law further provides that a “defendant shall in all
23 cases be taken before the magistrate without unnecessary delay, and, in any event, within
24 48 hours after his or her arrest, excluding Sundays and holidays.” *Id.* § 825.

25 Because Plaintiff was arrested pursuant to a facially valid Governor's Warrant, as
26 discussed above, he was legally detained. However, an appearance before a judge is a
27 “significant procedural protection” to which Plaintiff was entitled. *Rivera*, 745 F.3d at
28 391. It is undisputed that Plaintiff appeared before a judge within forty-eight hours of his
arrest in compliance with constitutional and statutory requirements.

1 California's version of the UCEA provides for further access to the courts, such
2 that "[i]f the accused or his counsel desires to test the legality of the arrest, the magistrate
3 shall remand the accused to custody, and fix a reasonable time to be allowed him within
4 which to apply for a writ of habeas corpus . . ." Cal. Pen. Code § 1550.1. Defendant
5 Tarantino, Plaintiff's assigned counsel, requested a continuance to allow time for a
6 fingerprint comparison. Tarantino indicated to the court that in the event he was not
7 satisfied with the fingerprint results, he would apply for a writ on behalf of his client.
8 The judge set a further status hearing, reserving Plaintiff's right to pursue a writ of habeas
9 corpus if necessary. Plaintiff was released from custody upon completion of the
10 fingerprint comparison. As such, no further hearing was held and no writ was necessary.

11 In sum, Plaintiff's wrongful eight-day detention, while unfortunate, did not violate
12 the Due Process Clause of the Fourteenth Amendment. *Baker*, 443 U.S. at 146 ("Section
13 1983 imposes liability for violations of rights protected by the Constitution, not for
14 violations of duties of care arising out of tort law.").

15 c) Qualified Immunity

16 Even if Plaintiff had not been arrested and detained pursuant to a facially valid
17 warrant, Defendant Officers are immune from liability. "Qualified immunity balances
18 two important interests – the need to hold public officials accountable when they exercise
19 power irresponsibly and the need to shield officials from harassment, distraction, and
20 liability when they perform their duties reasonably." *Pearson v. Callahan*, 555 U.S. 223,
21 231 (2009). An officer is entitled to qualified immunity unless (1) facts viewed in the
22 light most favorable to the injured party show that the officer violated a constitutional
23 right, and (2) the right was clearly established at the time of the alleged misconduct.
24 *Saucier v. Katz*, 533 U.S. 194, 201 (2001), modified by *Pearson*, 555 U.S. at 233.

25 "It is well established that, in an action for unlawful arrest pursuant to a facially
26 valid warrant, a police officer is entitled to qualified immunity unless no officer of
27 reasonable competence would have requested the warrant." *Case v. Kitsap Cty. Sheriff's*
28 *Dep't*, 249 F.3d 921, 926 (9th Cir. 2001) (internal quotations omitted). Reasonable

1 officers in Defendants' position would not have clearly known that their conduct was
2 unlawful under the circumstances. *See Hunter v. Bryant*, 502 U.S. 224, 229 (1991)
3 (holding that "qualified immunity standard gives ample room for mistaken judgments by
4 protecting all but the plainly incompetent or those who knowingly violate the law").
5 Liability only attaches if a reasonably well-trained officer in that position would have
6 known that the affidavit supporting the warrant failed to establish probable cause.
7 *Forster v. County of Santa Barbara*, 896 F.2d 1146, 1147-48 (9th Cir.1990). Here, no
8 officer could have known whether the Governor's Warrant was supported by probable
9 cause. In the context of extradition proceedings, the arresting officers in the asylum state
10 are constitutionally and statutorily prohibited from questioning the demanding state's
11 probable cause finding. *Baker*, 443 U.S. at 145-146. Thus, Defendant Officers were not
12 in a position to determine whether there was an adequate factual basis for the Governor's
13 Warrant, nor were they permitted or otherwise obligated to inquire.

14 As set forth above, Plaintiff's arrest and detention do not give rise to a
15 constitutional violation. Even if Plaintiff suffered a violation of his Fourth or Fourteenth
16 Amendment rights, Defendant Officers are entitled to qualified immunity.

17 d) Municipal Liability Claim

18 Plaintiff brings a claim against the County pursuant to *Monell v. Dep't of Soc.*
19 *Servs. of City of New York*, 436 U.S. 658 (1978). Plaintiff alleges that it is the practice of
20 the San Diego County Sheriff's Department to undertake by "snail mail" the exchange of
21 documents and information with other agencies, and only after effectuating an arrest,
22 resulting in wrongful arrests and prolonged detentions. Because the individual officers
23 did not violate Plaintiff's constitutional rights, Plaintiff's claim for municipal liability
24 fails as a matter of law. *See Quintanilla v. City of Downey*, 84 F.3d 353, 355 (9th Cir.
25 1996) ("[A] public entity is not liable for § 1983 damages under a policy that can cause
26 constitutional deprivations, when . . . an individual officer, acting pursuant to the policy,
27 inflicted no constitutional harm to the plaintiff."); *see also Forrester v. City of San Diego*,
28 25 F.3d 804, 808 (9th Cir. 1994) (holding that "a finding that the arrests did not involve

1 the use of unreasonable force” renders “moot the question of whether the city’s policy
2 authorized the use of constitutionally excessive force”) (citing *City of Los Angeles v.*
3 *Heller*, 475 U.S. 796, 799 (1986)). Even if a constitutional violation had occurred,
4 Plaintiff has not demonstrated that “his deprivation resulted from an official policy or
5 custom established by a municipal policymaker possessed with final authority to establish
6 that policy.” *Erdman*, 926 F.2d at 882. The County is entitled to summary judgment in
7 its favor as to Plaintiff’s municipal liability claim.

8 The Court notes that Plaintiff seeks leave to discard the basis for his municipal
9 liability claim as set forth in the Third Amended Complaint, in order to allege new
10 theories of liability against the County. However, amendment would be futile based on
11 the Court’s determination that no underlying constitutional violation occurred. In
12 addition, although the Federal Rules favor a liberal approach to amendments,
13 amendments may not be used as a device to prevent the efficient resolution of a case.
14 Where, as here, a party proposes amendments while a summary judgment motion is
15 pending, the Court must look closely to determine whether the proposed amendment is a
16 tactic to prevent termination of the case on summary judgment. *Schlacter-Jones v.*
17 *General Telephone of California*, 936 F.2d 435, 443 (9th Cir. 1990). Defendants seek
18 summary judgment as to all of Plaintiff’s current claims. If Plaintiff is allowed to amend
19 his complaint now, he will have effectively evaded the termination of his lawsuit on
20 summary judgment. As such, the Court denies Plaintiff’s request for leave to amend his
21 municipal liability claim.

22 e) State Law Claims

23 Plaintiff also brings various state law claims against Defendants, including
24 wrongful arrest, false imprisonment, negligence, and professional malpractice. Plaintiff’s
25 state law claims are before the Court based on supplemental jurisdiction. *See* 28 U.S.C. §
26 1367(a). Based on the foregoing, Plaintiff’s federal claims are subject to dismissal. The
27 Court declines to exercise supplemental jurisdiction over Plaintiff’s state law claims
28 based on the dismissal of the claims over which the Court has original jurisdiction. *Id.* §

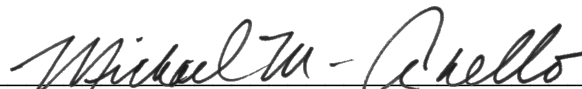
1 1367(c)(3) (“The district courts may decline to exercise supplemental jurisdiction over a
2 claim . . . if the district court has dismissed all claims over which it has original
3 jurisdiction.”); *see also*, *Acri v. Varian Associates, Inc.*, 114 F.3d 999, 1000-1001 (9th
4 Cir. 1997) (noting that “in the usual case in which all federal law claims are eliminated
5 before trial, the balance of factors . . . will point toward declining to exercise jurisdiction
6 over the remaining state law claims.”) (quoting *Carnegie-Mellon University v. Cohill*,
7 484 U.S. 343, 350, n. 7 (1988)). Accordingly, the Court dismisses Plaintiff’s state law
8 claims without prejudice.

9 **CONCLUSION**

10 For the reasons set forth above, the Court **GRANTS** Defendants’ motion for
11 summary judgment and dismisses Plaintiff’s federal civil rights claims with prejudice.
12 The Court declines to exercise supplemental jurisdiction over Plaintiff’s remaining state
13 law claims and dismisses those claims without prejudice. The Clerk of Court is
14 instructed to enter judgment accordingly and close the case.

15 **IT IS SO ORDERED.**

16 DATE: August 11, 2017

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18 HON. MICHAEL M. ANELLO
19 United States District Judge
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